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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,639	08/26/2003	Melvin Deien	PLWL	3902

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POLSTER, LIEDER, WOODRUFF & LUCCHESI  
12412 POWERS COURT DRIVE SUITE 200  
ST. LOUIS, MO 63131-3615

EXAMINER

REIS, TRAVIS M

ART UNIT PAPER NUMBER

2859

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/648,639

Applicant(s)

DEIEN, MELVIN

Examiner

Travis M. Reis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16-20, 22-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-20, 22-24 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### *Claim Rejections - 35 USC § 102*

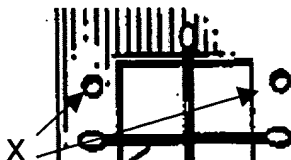
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Land (U.S. Patent 4982503).

Land discloses a rear sight system for improving aiming of an arrow fired by a bow (10) which has a base plate (16) and a forward sight (18), the rear sight system (61), comprising a rear sight (60) mounted on said base plate (Figure 1) such that said rear sight is adjustably movable along three axis of movement relative to said base plate (Figures 2, 3) said rear sight being separately movable (52) from said forward sight in a direction substantially parallel to a direction of flight of said arrow fired by said bow, said rear sight including a pair of alignment marks (X, see below),



located between a top of said rear sight and a bottom of said rear sight, that align with a pin (38) on said forward sight only when said bow is properly aligned such that said pin is located away from said rear sight and wherein said pin is obscured when said bow is misaligned (Figures 1-3).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beshires (U.S. Patent App. Pub. 20020017027) in view of Theodore (U.S. Patent 3777380).

Beshires discloses a rear sight (Figure 2) for use in conjunction with a pin sight (13) on a bow (2), said rear sight comprising a sighting groove/sighting assembly (9) mounted on a base plate (4) of said bow (Figure 4), said sighting groove being adjustable along three axis of movement (left/right via groove 10, up/down via a screw 8 (Figure 6), & backward/forward via multiple grooves 1) (Figure 1), with respect to said bow such that an archer can sight through the sighting groove at said pin sight only when said bow and archer are properly aligned.

Beshires does not disclose said sighting groove with a length, width, and height such that said length has a longer dimension than its width, such that misalignment of the bow will cause a portion of said groove to obscure a view through said groove.

Theodore discloses a sight (10) that has a groove (5) with a length (11) has a longer dimension than its width (12) (Figure 1), such that misalignment of the bow will cause a portion of said groove to obscure a view through said groove, in order to facilitate rapid target acquisition and the tracking of moving targets (col. 1 lines 34-36). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to shape the rear sight disclosed by Beshires in the manner of a length with longer dimension than its width dimension as taught by Theodore in order to facilitate rapid target acquisition and the tracking of moving targets.

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6. Claims 1-5, 14, 16, 22-24, & 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Beshires & Theodore as applied to claim 19 above, and further in view of Land.

Beshires & Theodore disclose all of the instant claimed invention as stated above in the rejection of claim 19, including a bow string (6), said sighting assembly being mounted rearward of said bow toward said string (Figure 3), said sighting assembly along a perpendicular axis to the plane of the support portion (5) and the longitudinal axis of said base plate; a pedestal and mast member (7) mounted on said base plate support portion on which said sighting groove is mounted, said sighting groove being V-shaped (Figure 2); wherein said base plate is separately movable with said forward pin sight assembly (3) (Figure 3).

Beshires & Theodore do not disclose a slide extending outwardly from said base plate such that said support portion is transversely movable along said longitudinal direction.

Land discloses an archery bow sight (Figure 1) with a base plate (16) with a slide slot (15) for receiving a slide (52) for a support portion (57) of a sighting assembly (60) for facilitating accurate target distance adjustments while minimizing cant (col. 2 lines 57-61). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to replace the multiple grooves disclosed by Beshires & Theodore with the slide means disclosed by Land in order to facilitating accurate target distance adjustments while minimizing cant.

7. Claims 6, 8-12 & 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beshires, Theodore, & Land as applied to claims 1-5, 14, 16, 22-24 & 26 above, and further in view of Hollenbach et al. (U.S. Patent 6035539).

Beshires, Theodore, & Land disclose all of the instant claimed invention as stated above in the rejection of claims 1-5, 14, 16, 22-24 & 26, but do not disclose an alignment mark on each side of said sighting groove that form a linear pattern with said pin sight.

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Hollenbach et al. discloses a fiberoptic gun sight with (14) with alignment marks (40)(Figure 21) on each side of a sighting groove (Figure 2) that form a linear pattern with a forward sight pin (92) in order to facilitate sight alignment to improve aim (col. 1 lines 8 & 30). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the alignment marks disclosed by Hollenbach et al. on each side of the sighting groove disclosed by Beshires, Theodore, & Land in order to facilitate sight alignment to improve aim.

8. Claims 7, 13 & 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beshires, Theodore, Land, & Hollenbach et al. as applied to claims 6-12 & 17 above, and further in view of Schroeder (U.S. Patent 4220983).

Beshires, Theodore, Land, & Hollenbach et al. disclose all of the instant claimed invention as stated above in the rejection of claims 6-12 & 17 but do not disclose a light to illuminate said alignment marks on each side of said groove such that the alignment marks are visible in low light.

Schroeder discloses an illuminated bowsight (12) including a light emitting diode (26) located centrally relative to the sight in order to illuminate the ring (16) in order to sight targets in dim conditions (Figure 4)(col. 1 lines 49-51). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the light emitting diode disclosed by Schroeder to the sighting assembly disclosed by Beshires, Theodore, Land, & Hollenbach et al. in order to sight targets in dim conditions.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beshires & Theodore as applied to claim 19 above, and further in view of Hollenbach et al.

Beshires & Theodore disclose all of the instant claimed invention as stated above in the rejection of claim 19, but do not disclose an alignment mark on each side of said sighting groove

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that form a linear pattern with said pin sight.

Hollenbach et al. discloses a fiberoptic gun sight with (14) with alignment marks (40)(Figure 21) on each side of a sighting groove (Figure 2) that form a linear pattern with a forward sight pin (92) in order to facilitate sight alignment to improve aim (col. 1 lines 8 & 30). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the alignment marks disclosed by Hollenbach et al. on each side of the sighting groove disclosed by Beshires & Theodore in order to facilitate sight alignment to improve aim.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-14, 16-20, 22-24, & 26 have been considered but are moot in view of the new ground(s) of rejection.

11. In response to applicant's arguments that the submission of secondary considerations (i.e. customer testimonials) provide evidence of patentability; these arguments have been fully considered but they are not persuasive since the prior art above meets the limitations of the claims.

12. In response to applicant's arguments that the Deien Declaration overcomes the prior art rejections; these arguments have been fully considered but they are not persuasive since under the new grounds for rejection these arguments are moot.

13. In response to applicant's arguments that the Deien Declaration provides proper evidence of longfelt need; these arguments have been fully considered but they are not persuasive since no proper evidence has been provided showing the longfelt need as stated in the guidelines of MPEP 716.04 as to what types of evidence should be provided to show longfelt need.

14. In response to applicant's arguments that the Deien Declarations provide proper


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evidence showing commercial success; these arguments have been fully considered but they are not persuasive since no objective evidence is provided to support Declarant's statement that the "commercial success" was not due to heavy promotion or shift in advertising or that the number of unit sales is considered to be significant given the industry. The declarations only provide statements without any evidence supporting these statements.

### ***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit 2859



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